

REMARKS

This application has been reviewed in light of the FINAL REJECTION mailed July 9, 2008. Reconsideration of this application in view of the below remarks is respectfully requested. Claims 1 – 11, 13, 14 and 16 are pending in the application with Claims 1, 13 and 16 being in independent form. By the present amendment, Claims 1, 13 and 16 are amended.

Support for the features recited in the amended claims can be found throughout the specification. For example, please refer to table 1 of the specification, which illustrates a hierarchal structure of command character trains as recited in amended Claims 1, 13 and 16. Therefore, no new subject matter is introduced into the disclosure by way of the present amendment.

I. Rejection of Claims 2 – 10 Under 35 U.S.C. § 112, Second Paragraph

Claims 2 – 10 are rejected under 35 U.S.C. § 112, second paragraph as allegedly indefinite because the phrase “the plurality of devices” recited in Claims 2, 5 and 8 lacks antecedent basis.

However, in view of the amendment to Claim 1, Applicant submits that the lack of antecedent basis in Claims 2, 5 and 8 has been adequately addressed. Accordingly, Applicant requests withdrawal of the rejection with respect to Claims 2 – 10 under 35 U.S.C. § 112, second paragraph.

II. Rejection of Claims 1 – 3, 5, 6, 8, 9, 11, 13, 14 and 16 Under 35 U.S.C. § 103(a)

Claims 1 – 3, 5, 6, 8, 9, 11, 13, 14 and 16 are rejected by the Examiner under 35 U.S.C. § 103(a) as allegedly obvious over U.S. Patent No. 6,911,916 issued to Wang et al. in view of U.S. Patent No. 6,278,975 issued to Brant et al.

The present Office Action cites col. 5, lines 27 and 32 – 33 as teaching Applicant's recited comparison data storing means, which hierarchically prestores comparison data to identify the hierarchy in execution of the instruction.

However, Wang and Brant fail to properly disclose or suggest hierarchically prestoring comparison data or command character trains, as recited in Applicant's Claim 1, 13 and 16. Specifically, Wang teaches storing language models of each device on the VCI of the respective controller to which the device is connected. Wang and Brant do not disclose how the command character trains are stored in the VCI, thus an assumption is being made in the present Office Action that the command character trains are stored hierarchically based on speculation and hindsight, rather than any disclosure or suggestion in the cited references.

The Examiner contends that the concept of "hierarchical storage" is too broad for Wang to be considered non-anticipatory. Simply because a concept is broad does not mean that a particular reference would anticipate it. It is well-settled by the Courts that "[A]nticipation requires the presence, in a single prior art reference disclosure, of each and every element of the claimed invention, arranged as in the claim." Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Company, et al., 730 F.2d 1452, 221 USPQ 481 (Fed. Cir., 1984). Therefore, regardless of the alleged broadness of the "hierarchical storage" concept Wang most certainly does not anticipate the concept, since hierarchical storage is not explicitly nor implicitly disclosed in Wang.

Moreover, with regards to the contention in the present Office Action that all software is inherently hierarchical, Applicant disagrees. The present Office Action fails to provide any evidence or explanation to support the opinion that all software is inherently hierarchical.

Consequently, the statement is mere unsupported opinion. Consequently, the conclusion that the voice recognition software disclosed in Wang is hierarchical is erroneous.

Additionally, while software may or may not be programmed in a hierarchical manner, assuming that this is the basis of opinion asserted in the present Office Action that all software is hierarchical, the manner in which the software is programmed is entirely irrelevant. The claims do not recite that the any programming is in a hierarchical manner. Rather, the claims explicitly recite: "...prestorage, as comparison data with a hierarchal structure, first command character trains for specifying each of a plurality of devices in a storage area corresponding to a first hierarchy in a memory in a system controller for controlling the plurality of devices, and second command character trains related to respective functions and instructions of the plurality of devices in a storage area corresponding to a second hierarchy subordinate to the first hierarchy..."

Further separating a list of words into "valid" and "not valid" categories does not anticipate or suggest data having an hierarchal structure, because the conclusion that a list of words are valid or not valid would need to be made on the fly, otherwise it would be nonsensical for one skilled in the art to waste storage space on words that are known to be "not valid". Therefore, if the sorting is performed on the fly, the data would not be prestored first command character trains and second command character trains as comparison data with a hierarchal structure.

Additionally, the Examiner points out correctly that Wang discloses "a lexicon, which constitutes the entire set of valid pronunciations, or all of the valid words that the master 12 is to recognize". Consequently, the so called "basic hierarchy" structure of "valid" and "non-valid" words does not even exist in the Wang disclosure since all words in the lexicon are valid and

there is no mention of including a lexicon of invalid words. Furthermore, identifying a word as being a selection command, a control command, or some other speech to be ignored does not constitute a hierarchy in anyway. For example, the words may be organized as follows: Word X – selection command, Word Y – ignore, Word Z – selection command, etc. The example organization is not hierarchical.

It should be noted that the individual command character trains are hierarchized in the present invention as claimed, not the entire language model. Thus, the fact that an entire language model of a device is stored on a slave controller to which the device is connected rather than on a master controller to which the slave controller is connected is irrelevant with respect to the features recited in Applicant's Claims 1, 13 and 16, because the command character trains are not disclosed or suggested to be hierarchized within the language model of the device.

For an example of what is meant by hierarchized command character trains refer to Applicant's Table 1 and accompanying text, wherein the hierarchal nature of the command character train is shown and discussed. Specifically, taking for example the electric cautery device, the command character tree hierarchy has at its root the device "electric cautery". The command character train branches then to a set of functions, i.e. "output system", "incision model", "output for incision", "clotting mode", and "output for clotting". Each of these functions in turn branch out to various operations applicable to the respective function. Thus, "monopolar" and "bipolar" are the operations allowed for function "output system" of device "electric cautery", for example. Using this hierarchal command character train greatly reduces misidentification of voiced commands by the present invention.

Furthermore, as a consequence of the failure of Wang and Brant to disclose or suggest the recited hierarchal structure of Applicant's command character trains, Wang and Brant, taken

alone or in any proper combination, also fail to disclose or suggest "...an executing unit which executes an instruction previously allocated to the combination of the command character trains that correspond to the first and second command character command trains, upon detecting, in the converted character data, the command character train from the first and second command character trains for a predetermined time interval in accordance with the hierarchal structure of the preset comparison data...", as recited in Claim 1 and similarly in Claims 13 and 16.

Therefore, for at least the reasons provided above, Claims 1 – 3, 5, 6, 8, 9, 11, 13, 14 and 16 are believed to be allowable over the cited prior art references. Accordingly, Applicant respectfully requests withdrawal of the rejection with respect to Claims 1 – 3, 5, 6, 8, 9, 11, 13, 14 and 16 under 35 U.S.C. § 103(a) over Wang in view of Brant.

III. Rejection of Claims 4, 7 and 10 Under 35 U.S.C. § 103(a)

Claim 4 is rejected by the Examiner under 35 U.S.C. § 103(a) as allegedly obvious over Wang et al. in view of Brant et al. and further in view of U.S. Publication No. 2003/0139789 (hereinafter, "Tvinneriem"); and Claims 7 and 10 are rejected by the Examiner under 35 U.S.C. § 103(a) as allegedly obvious over Wang et al. in view of Brant et al. and further in view of U.S. Patent No. 6,402,714 issued to Kraft-Kivikoski.

Neither Tvinneriem nor Kraft-Kivikoski disclose or suggest voice control of medical operating devices. Therefore, Tvinneriem and Kraft-Kivikoski fail to overcome the above-identified deficiencies in Wang and Brant as they relate to the hierarchal nature of the stored command character train and comparison data. Consequently, Wang, Brant, Tvinneriem and Kraft-Kivikoski, taken alone or in any proper combination, fail to disclose or suggest Applicant's independent Claims 1 and 13, from which Claims 4, 7 and 10 depend.


Therefore, for at least the reasons provided above, Claims 4, 7 and 10 and 16 are believed to be allowable over the cited prior art references, Accordingly, Applicant respectfully requests withdrawal of the rejections with respect to Claims 4, 7 and 10 under 35 U.S.C. § 103(a) over Wang in view of Brant and further in view of Tvinneriem or Kraft-Kivikoski.

CONCLUSIONS

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 1 – 11, 13, 14 and 16 are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicant's undersigned attorney at the number indicated below.

Respectfully submitted,



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